

**EXHIBIT N**Received 03/12/23  
3-2-86-64399

**From:** [Dorothy A. Watkins](#)  
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**Subject:** EFILE LOGIN: Larabee, Carla v. Gypsum Express - 64399  
**Date:** Friday, March 10, 2023 3:52:13 PM

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**From:** MZD-Maryanne Durden <mdurden@conroysimberg.com>  
**Sent:** Friday, March 10, 2023 1:52 PM  
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**Subject:** Larabee v. Gypsum Express, et al; Our Matter No. 2147392;

Good afternoon, Everyone,

“As you all know, responses to the subpoenas served by OC are due today (with the exception of Dr. Folley). Please provide responses to the subpoena today, as required, however omitting and privileged documents in your file relevant to the below items that may be in your files.

Specifically as the subpoena requests in paragraph 3 of Exhibit “A”, a complete copy of any expert reports, including draft reports, Defendant objects to same. Even though your Subpeona purports to be a Rule 45 subpoena, because it is directed at a retained expert, documents responsive to the subpoena continue to be subject to Rule 26 restrictions. Rule 26(b)(3)(A) and (B) protect *drafts of any report or disclosure required under Rule 26(a)(2)*, regardless of the form in which the draft is recorded.

Additionally, as it relates to paragraph 11 of Exhibit “A” and the request for “All correspondence..” including emails...in connection with this matter...including but not limited to any and all correspondence from [defendant or their attorneys]. Defendants continues their objection to same as such correspondence/communication is protected by Rule 26(b)(3)(A) and (B) *communications between the party’s attorney and any witness required to provide a report under Rule 26(a)(2)(B)*, regardless of the form of the communications, *except to the extent that the communications:*

- (i) relate to compensation for the expert's study or testimony;
- (ii) *identify facts or data that the party’s attorney provided and that the expert*

*considered in forming the opinions to be expressed; or*

*(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed."*



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**We respectfully request that you send any documentation/correspondence electronically instead of via mail or fax if you are able.**

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